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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,494	03/15/2004	Howard C. Willauer	5132A	9306

7590 09/22/2004

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EXAMINER

SINGH, ARTI R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,494	Applicant(s) WILLAUER ET AL.	
	Examiner Ms. Arti Singh	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-66 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 42-66 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 1504 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/15/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 03/15/2004 has been considered, has been signed and is being remitted.

Specification

2. The disclosure is objected to because of the following informalities:
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Please amend the title of the specification as the elected claims are directed to the method of making and not the article itself. Appropriate correction is required.
4. Please amend/update the first paragraph of the specification with the correct continuity data.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 42-58 and 62-66 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds USPN 5,261,978. Reynolds teaches a composite having a three dimensional camouflage appearance (abstract). The lightweight camouflage construction comprising an open mesh, net substrate to which is bonded a sheet material such as a woven fabric, film, nonwoven or the like. The sheet is colored in a desired camouflage pattern bonded to the substrate along spaced lines of attachment, and cut to simulate the appearance of natural

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objects of terrain, such as leaves or foliage between adjacent lines of bonding (column 2, line 62- column 3). During processing of the bonded composite the fabric forms lobes on each side of the stitching the appearance of natural terrain, the fabric is heated to soften the lobes while passing downwardly to allow the lobes to fall away from the mesh, thereby forming undulations in the textile (column 3, lines 19-25). The Examiner is equating the lobes and depressions to be the same as the wrinkled and flat regions desired by Applicant. In column 4, lines 23 onwards patentee discloses that the continuous sheet, that is the textile layer may be woven, nonwoven or knit, further in the same paragraph patentee illustrates various weave patterns such as Raschel (line 38) and rip-stop (line 43). It should be noted that patent states that a woven textile may be employed which intrinsically advocates that a specific weave is engaged.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 59-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds USPN 5,261,978. The salient features of Reynolds are set forth above, however Reynolds fails to disclose the exact weave when employing a woven textile. Therefore, with regard to the limitations of claims 59-6, where selected pattern of the weave is to be either a plain or satin or weave, the Examiner takes the position that the teachings of Reynolds instruct the use of textiles that may be woven, nonwoven, knits, films or meshes. One of ordinary skill in the art at the time the invention was made would have found it obvious to have used the specific

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weave of either a plain or satin weave in the specific textile of Reynolds motivated by the reasoned expectation of using the cheapest (economically sound) and readily available woven textiles such a satin or plain weave. Additionally, a skilled artisan may have chosen a satin or plain weave motivated by the desire to employ a textile which has the specific properties of strength and durability.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 5,486,385 and USPN 5,035,031.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-F 9-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ms. Arti Singh
Primary Examiner
Art Unit 1771

Ars 09/17/04